

FILED

AUG 21 2012

PATRICK E. DUFFY CLERK  
BY Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

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UNITED STATES OF AMERICA,	)	Cause No. CR 08-91-BLG-RFC
	)	
Plaintiff/Respondent,	)	
	)	
vs.	)	ORDER DISMISSING MOTION
	)	AND DENYING CERTIFICATE
LANCE LEWIS,	)	OF APPEALABILITY
	)	
Defendant/Movant.	)	

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On August 20, 2012, Defendant/Movant Lance Lewis filed a “writ of habeas corpus under 28 U.S.C. § 2255(f)(3).” Lewis is a federal prisoner proceeding pro se.

The instant motion is Lewis’s second § 2255 motion. Mot. § 2255 (doc. 32) at 1; Order (doc. 34). This Court lacks jurisdiction to consider it. 28 U.S.C. § 2255(h); *Burton v. Stewart*, 549 U.S. 147, 149 (2007) (per curiam).

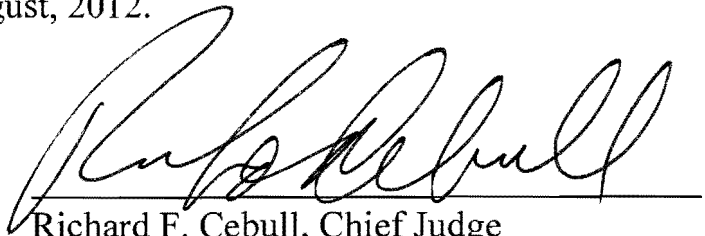
Because dismissal is imperative, a certificate of appealability is not warranted. Further, Lewis’s motion is frivolous because he knew the United States did not promise him a sentence reduction, *see* Order (doc. 43) at 1-5, and the motion is

untimely; consequently, transfer to the Court of Appeals is not in the interest of justice. 28 U.S.C. §§ 1631, 2255(f).

Accordingly, IT IS HEREBY ORDERED as follows:

1. Lewis's second § 2255 motion (doc. 47) is DISMISSED for lack of jurisdiction.
2. A certificate of appealability is DENIED.
3. The Clerk of Court is directed to enter, by separate document, a judgment of dismissal in the civil case.

DATED this 21<sup>st</sup> day of August, 2012.



Richard F. Cebull, Chief Judge  
United States District Court